



# *The Virginia State Banker*

Regulatory news for Virginia State-chartered Banks

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*Bureau of Financial Institutions - State Corporation Commission*

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## **STATE BANK REGULATORS TELL SENATE PANEL REGULATORY CHANGES NEEDED**

In testimony before the Senate Banking Committee on June 22, state bank regulators said the recent sweeping federal pre-emption rules for national banks have impacted the nation's dual-banking system by encouraging larger state-chartered banks to convert to national banks. If all state-chartered banks with interstate operations were to switch charters, the viability of the state chartering and supervisory system would be imperiled.

The preservation of a state bank chartering and regulatory system sets the United States' financial system apart from that of every other developed nation and is a primary contributor to our nation's diverse, vibrant, resilient, and

responsive economy. Without the state chartering system, community-based banking would be greatly diminished.

State regulators outlined the following four recommendations which they would like to see in a Senate-crafted regulatory relief bill, should one be introduced this session:

- A provision codifying how state-chartered institutions which branches in more than one state are examined;
- A provision allowing de novo interstate branching for state-chartered banks and trust companies;
- A provision granting the Federal Reserve more flexibility to allow state member banks to engage in expanded activities authorized by their chartering states (Currently, the

Federal Reserve Act limits state member banks to the activities allowed for national banks.);

- And a change in the law to give state bank regulators a voting position on the Federal Financial Institutions Examination Council (FFIEC).

In addition, state regulators asked the Senate Banking Committee to encourage the Internal Revenue Service to rethink its interpretation of the tax treatment of state-chartered limited liability companies (LLCs). State regulators also told the Committee that they are highly supportive of the FFIEC's regulatory relief initiative known as EGRPRA (Economic Growth and Regulatory Paperwork Reduction Act).

*The Virginia State Banker* is published by the Virginia Bureau of Financial Institutions to provide useful information to the banks and savings institutions that it regulates, and any of their related interests. Reader comments and suggestions are welcome and should be addressed to Ginger Sandler, Bureau of Financial Institutions, P.O. Box 640, Richmond, Virginia 23218-0640, or via e-mail [gsandler@scc.state.va.us](mailto:gsandler@scc.state.va.us).

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## **INDEPENDENCE OF AUDIT COMMITTEE MEMBERS**

Whether covered by the Securities and Exchange Commission or not, the audit committees of all banks should be comprised of independent, outside directors. Until a member of management has had no bank management duties for at least five years, he is not considered independent. If a director is providing third-party services to the institution, chances are good that independence is compromised. Similarly, a director who works for or who owns stock in a company providing third-party services to the bank has an independence hurdle. A director doing a significant amount of

business with the bank has an independence hurdle as well.

While directors should be some of the bank's best customers, their borrowings from the bank—and the services or products they sell the bank—should be limited to ensure that the public's perception is not that the institution was created to be the board's personal piggy bank. When those relationships get in the way of sound judgment, independence has been compromised.

## CSBS ELECTS OFFICERS FOR 2004-2005

Mississippi Commissioner of Banking and Consumer Finance John Allison took office as Chairman of the Conference of State Bank Supervisors (CSBS) at the organization's 103rd Annual Meeting and Conference in Rancho Mirage, California. Mr. Allison succeeds Oklahoma Bank Commissioner Mick Thompson, who continues on the CSBS Board as Immediate Past Chairman.

CSBS members also elected Eric McClure, Missouri Commissioner of Finance, as Chairman-elect. Mr. McClure will take office as CSBS Chairman at the 104th Annual Meeting in June 2005. Virginia Commissioner of Financial Institutions Joseph Face was elected Vice Chairman. Wyoming Banking Commissioner Jeffrey Vogel was elected Secretary, and North Dakota Commissioner of Financial Institutions Timothy Karsky enters his second year of a two-year term as CSBS Treasurer.

"State bank supervisors play a vital role in ensuring that our nation will continue to benefit from our dual-banking system," said Mr. Allison. "The Conference of State Bank

Supervisors is the only national organization dedicated to advancing the state bank charter." Over 73 percent of the nation's banks are state-chartered," Mr. Allison added. "That fact points out that the dual-banking system is alive and well, and undergirds the organization's mission: to champion a system that offers competitive chartering options, efficient and effective supervision, and a lower cost of regulation for all banks."

"This is an incredibly important year for CSBS and for all state banking regulators to work together on issues vital to our nation's financial services industry." Supervisors representing the districts are as follows:

**District I** - Delaware Bank Commissioner Robert Glen

**District II** - Indiana Director of Financial Institutions Charles Phillips

**District III** - Louisiana Deputy Commissioner of Financial Institutions Doris Gunn

**District IV** - Kansas Commissioner of Banking Clancy Norris

**District V** - Utah Commissioner of Financial Institutions Ed Leary

Chairman Allison appointed Arkansas Banking Commissioner

Robert Adcock and California Commissioner of Financial Institutions Howard Gould to at-large positions on the Board.

Kansas Deputy Commissioner of Banking Judi Stork, who heads the Education Foundation of State Bank Supervisors, continues as a member of the Board.

Other members of the Board of Directors are Bankers Advisory Board co-Chairmen Gary Nelson, Chairman and CEO of First Texas Bancorp, Inc., Georgetown, Texas, and Thomas Gronstal, Iowa Superintendent of Banking; International Bankers Advisory co-Chairmen Fernando Capablanca, President, Banco Credito Inversiones, Miami, Florida; New York State Superintendent of Banks Diana Taylor; North Carolina Commissioner of Banks Joseph Smith, Jr., Chairman of the CSBS Legislative Committee; Tennessee Commissioner of Financial Institutions Kevin Lavender, Chairman of the CSBS Regulatory Committee; and Georgia Commissioner of Banking and Finance David Sorrell, who chairs the CSBS Technology Committee.

## CSBS: STATE BANKS STAY STRONG, BUT FEDERAL PRE-EMPTION THREATENS DUAL BANKING

In testimony before the Senate Banking Committee on April 20, 2004, Tennessee Commissioner of Financial Institutions Kevin Lavender said that the nation's 6,300+ state-chartered banks continue to fuel the nation's economy, but he expressed concern over the sweeping Federal regulatory pre-emption rules recently issued by the Office of the Comptroller of the Currency (OCC) that could undermine the balance that has characterized the nation's dual-banking system since its inception more than 140 years ago.

"Net income of state-chartered commercial and savings banks at year-

end 2003 reached \$44.2 billion, an 18 percent increase over the previous year's record levels," Mr. Lavender told the committee, testifying on behalf of CSBS. He noted that state banks have an aggregate capital ratio in excess of nine percent, which exceeds the industry aggregate, and that state banks' ratio of nonperforming assets is lower than the industry's overall level. "Our banks are still finding good loans to make, and we saw strong growth in earning assets in 2003," he said.

Mr. Lavender emphasized the role of state supervision in maintaining the

system's health. He told the committee that a recent decision by the OCC to exempt national banks and their state-chartered subsidiaries from most state laws, state regulatory oversight, and law enforcement poses a grave threat to the state banking system and the state/federal dual-banking system.

"Maintaining a local role in consumer protection and a strong state banking system is more important than ever in the wake of the current round of mergers among our nation's largest financial institutions," Mr. Lavender said.

*Continued on page 3*

## JAIL SENTENCE FOR UNLICENSED MONEY TRANSMITTERS

On June 10, 2004, the U.S. District Court in Alexandria, Virginia sentenced Sonia Fantina Villeda and Carlos Omar Gonzalez to 30 months and 24 months in jail, respectively, for operating a money services business in Virginia and Maryland without the required state licenses.

Sonia Fantina Villeda was the principal, and Carlos Omar Gonzalez was an employee of Villeda Express who attempted to conceal and export \$206,307 in stuffed toy animals to Guatemala through Washington Dulles Airport. Jose Ronald Sandoval, Sr., a courier, was also charged and held in jail since his arrest on January 28, 2004. He was found guilty of knowingly smuggling more than \$10,000 without reporting the currency to U.S. Customs authorities and was deported to Guatemala. It was the second time this year a courier working for Villeda Express was intercepted at Dulles Airport. Sonia Fantina Villeda agreed to forfeit the entire \$206,307 to the government.

This case was the subject of a grand jury indictment in Alexandria last March whereby Villeda, Gonzalez, and

Sandoval pleaded guilty as charged. Both Virginia and Maryland laws require a money transmission license prior to engaging in the money transmission business. In Virginia, the money transmission business is regulated by the Bureau of Financial Institutions, State Corporation Commission and in Maryland by the Division of Financial Regulation. The case was investigated by U.S. Immigration and Customs Enforcement with assistance from state and federal agencies.

Bankers should make sure their money transmitter customers are licensed by the states in which they conduct business and are registered at the federal level with FinCEN as a money services business. A current list of licensed money transmitters serving Virginia residents can be obtained from the Bureau's Web site at [www.state.va.us/scc/division/banking](http://www.state.va.us/scc/division/banking) and a list of money services businesses registered with FinCEN at [www.msb.gov/guidance/msbstateselector.html](http://www.msb.gov/guidance/msbstateselector.html).

## CSBS: STATE BANKS (continued from page 2)

"Centralizing authority or financial power in one agency, or in a small group of narrowly regulated institutions, would threaten the dynamic nature of our economy," he added.

Other witnesses at the hearing included Federal Reserve Chairman Alan Greenspan; Federal Deposit Insurance

Corporation (FDIC) Chairman Don Powell; Comptroller of the Currency John Hawke, Jr.; Office of Thrift Supervision Director James Gilleran; and National Credit Union Administration Chairman Dennis Dollar.



## NEW BANK IN HANOVER COUNTY

On May 12, 2004, the State Corporation Commission approved the application of River City Bank to begin banking business at 6127 Mechanicsville Turnpike, Mechanicsville, Hanover County. River City Bank has also been approved for membership in the Federal Reserve System and is awaiting insurance of accounts from the FDIC.

Provided it receives FDIC insurance, the Bank plans to open for business in July 2004 with \$9.3 million in capital. The Chief Executive Officer is William D. Stegeman. The Board of Directors will consist of the following persons:

Michael A. Katzen, Chairman; William D. Stegeman; Timothy C. Bishop; Dr. William C. Boshier, Jr.; Dr. E. Bruce Heilman; E. Wincel Brooks, Sr.; Leonard T. Bukoski; Paul H. Connors; O. Woodland Hogg, Jr.; Linda H. Marks; Gregory S. Nevi; Joseph H. Seipel; Charles E. Walton; and John T. Wash, Sr.

River City Bank would be the third State-chartered bank to open for business in Virginia this year. Earlier in the year, Bank of Virginia opened for business in Midlothian, Chesterfield County; and in May, MainStreet Bank opened for business in Herndon, Fairfax County.

## **FEDERAL HOME LOAN BANK OF ATLANTA REQUESTS FOR VIRGINIA EXAMINATION REPORTS**

The Bureau is aware that many of our Virginia-chartered banks are members of the Federal Home Loan Bank of Atlanta (FHLB-A). When FHLB-A receives a membership application from a Virginia-chartered bank, the Bureau receives a request from the FHLB-A for a copy of our most recent examination report of the bank. Since the FHLB-A is not a regulatory agency, the Bureau has declined these requests. Bankers should be advised that Virginia Code §6.1-90 prohibits them from sending a copy to FHLB-A. As noted

in the last paragraph of that section, there is a provision whereby the Board may allow the FHLB-A to look at the report (but not duplicate it) in the bank, but under no circumstances is a copy to be sent to any outside party. The main reason for the prohibition is to protect the confidentiality of the bank's data and the Bureau's findings. If any copies of examination reports have been sent to FHLB-A, a request for the return of the report should be made promptly, with the proviso that no copies be made. Once returned, the copy should be destroyed.

## **VIRGINIA BANK DIRECTORS' COLLEGE - ESSENTIAL PRINCIPLES**

The Virginia Bank Directors' College - Essential Principles Session will be held at the Boar's Head Inn, Charlottesville, on November 3 and 4, 2004. This session targets basic information to help Directors understand the regulatory examination process and supervisory activities.

The Virginia Association of Community Bankers is handling registration. The program brochure will be mailed during the week of August 30. Sign up early; registration is limited.

## **ASSESSMENT FEE REDUCTION**

The State Corporation Commission reduced the July 2005 bank, savings, institution, and industrial loan association assessments by 25% as recommended by Commissioner Face. The reduction leaves \$2.2 million with Virginia-chartered institutions, which the Bureau is entitled to collect under existing regulations to defray the costs of regulation, supervision, and examination. This year's decrease follows a 10% reduction in July 2003 that left \$685,000 with Virginia-chartered banks rather than the Bureau.

The reduction stems primarily from two factors. First, the financial services sector has enjoyed rapid growth and record

profits under the low-interest-rate environment of the past few years. This translates to increased revenue to the Bureau. Secondly, the Bureau re-engineered its internal processes a few years ago, streamlining operations and making critical investments in technology. Consequently, expenditure growth has been contained at the very time that revenues have been surging. Despite the \$2.2 million reduction, the Bureau remains financially sound with a reserve sufficient to afford protection against unforeseen contingencies.

## **REGULATORY AGENCIES ANNOUNCE LAUNCH OF WEB SITE**

The federal bank regulatory agencies announced the availability of a Web site that provides information on the FFIEC's Call Report Modernization Initiative. The FFIEC Call Report agencies (the Federal Reserve Board, the FDIC, and the OCC) are building a central data repository (CDR) to modernize

and streamline how the agencies collect, process, and distribute bank financial data.

The FIND (Financial INstitutions Data - Bank Call Reports) Web site provides details on the initiative in the months leading up to the implementation of the CDR and will continue to

provide guidance after completion of the initiative. Implementation of the CDR is slated for Fall 2004, and banks will first use the CDR to submit their September 30, 2004 Call Report data to the agencies. The Web site can be accessed at [www.FFIEC.gov/find](http://www.FFIEC.gov/find).

## **CSBS APPLAUDS FCA VOTE**

Meeting April 22, 2004, the Farm Credit Administration's (FCA) Board voted 3-0 to turn down a proposal that would have allowed Farm Credit System (FCS) institutions to offer farm management and agricultural trust services.

This decision comes as good news to CSBS, which had called the proposed expansion inappropriate in a January 30 comment letter. The comment letter was prompted by requests from several state bank commissioners who were concerned about FCS's further expansion of services. CSBS

noted that many state-chartered banks are heavily involved in agricultural lending and that increased competition from government-sponsored entities could put pressure on agriculture bank earnings.

CSBS President and CEO Neil Milner applauded the FCA Board action. "We told the FCA that there is no need for a government-sponsored enterprise to provide services that are already being provided by regulated and supervised financial institutions. We are pleased that the Board agrees," he said.

## IMPORTANT TELEPHONE NUMBERS

- Banks and Savings Institutions (804) 371-9704
- Consumer Finance and Mortgage Companies (804) 371-9701
- Licensing (applications, name changes, annual reports) (804) 371-9690
- Consumer Complaints (804) 371-9705
- Corporate Information (SCC Clerk's Office) (804) 371-9733
- Bureau's FAX number (804) 371-9416
- TDD (804) 371-9206

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Check out our Web site at  
[www.state.va.us/scc/division/  
banking.](http://www.state.va.us/scc/division/banking)

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